

BQC - 90 - 010

Date: January 31, 1990

To: All Wisconsin ICF/MR Facilities

From: Larry Tainter, Director  
Bureau of Quality Assurance

Subject: HSS 134 Codes Approved for a Statewide Waiver

During the development of the new Chapter HSS 134 Rules for Facilities for the Developmentally Disabled (FDD), our intention was to keep the rules consistent with the federal ICF/MR regulations unless there was a difference in state and federal law. The final federal regulations were promulgated four (4) months after the state code and did vary in certain areas from HCFA's proposed regulations. Based on the experience we now have after a year of applying both federal and state codes during surveys, it has been decided to grant a statewide waiver for the following four (4) state codes, until such time as HSS 134 is revised.

HSS 134.42(2)(c): This requires the QMRP to review the resident's IPP on a monthly basis. 42 CFR 483.440(f)(1) requires the review to be "as necessary" which is satisfactory and reduces some extra work for the QMRP.

HSS 134.52(3): This requires a number of specific areas to be included in a preeadmission evaluation. 42 CFR 483.440(b)(3) is more general in the requirements, which is acceptable, since there is a requirement for a comprehensive assessment within 30 days after admission.

HSS 134.60(6)(c): Requires the department to review all behavior management programs regarding: 1) Unlocked time-outs exceeding one hour; 2) unusual or intrusive procedures; 3) any procedure that denies residents' rights. 42 CFR 483.440(f)(3) requires the facility to have a committee, with a required membership, review and approve the programs. The state does not have the staff to review the large volume of programs in a timely manner. The Bureau of Quality Compliance will evaluate this committee's work during the survey.

HSS 134.62(2): Professional Program Services. This section is very specific regarding what discipline can provide what kind of professional services. 42 CFR 483.430(b)(1) and (2) cover the same requirements and have a more liberal approach to the use of para and nonprofessional staff. The facility has the responsibility to determine which discipline is most appropriate. The surveyors will be looking at the outcome to determine if the service was appropriate.

If you have any questions, please contact the Field Operations Manager in your district.

LT/RC/jh 8874

cc: -Wisconsin Association of Nursing Homes  
-Wisconsin Association of Homes and Services for the Aging  
-Wisconsin Medical Records Association Consultants Committee  
-Service Employees International Union, Local 150  
-Wisconsin Coalition for Advocacy  
-DOH Administrator  
-Committee on Aging, Extended Care Facilities – SMS  
-Wisconsin Association of Medical Directors  
-Board on Aging and Long Term Care  
-Wisconsin Counties Association